

BEFORE THE
DEPARTMENT OF NATURAL RESOURCES

AMENDED
NOTICE OF PUBLIC HEARINGS
WT-28-04

NOTICE IS HEREBY GIVEN that pursuant to ss. 59.692, 227.11(2)(a) and 281.31, Stats., interpreting ss. 59.69, 59.692 and 281.31, Stats., the Department of Natural Resources will hold public hearings on revisions to ch. NR 115, Wis. Adm. Code, relating to minimum standards for county shoreland zoning ordinances. The proposed revisions are intended to meet the statutory objectives of the program, while providing certainty and flexibility to counties and property owners. Changes include adding definitions to the rule for clarity; establishing standards for multi-unit residential development, mobile home parks and campgrounds; providing exemptions for certain activities from shoreland setback and shoreland vegetation standards; establishing impervious surface standards; and replacing the “50% rule” for nonconforming structures with a standard based on the size and location of structures. These changes will significantly decrease the number of variances granted by counties, allowing certain activities to be allowed with a simple administrative permit by the county. Substantive changes include:

- Language is added to advance the statutory purposes of the program found in s. 281.31(1), Stats.
- Language is added recognizing that this rule only establishes minimum standards for county shoreland zoning ordinances, and counties may adopt more protective regulations to adequately protect local resources.
- Language consistent with s. 59.692(7), Stats., is added to clarify how this rule impacts lands annexed or incorporated by cities and villages.
- Language clarifying the authority of the town shoreland zoning ordinances is added.
- Language clarifying the applicability of ch. NR 115 in areas under the jurisdiction of ch. NR 118 is added.
- The number of definitions was increased from 13 to 52 to help provide consistency in interpretation of county shoreland zoning ordinances
- The requirement for land division review is changed from the creation of “3 or more lots” to the creation of “one or more lots” to ensure that all new lots created meet minimum lot size requirements. This standard was added to protect prospective property owners and ensure that all lots have a buildable area.
- If new lots are created that are divided by a stream or river, one side of the lot must meet minimum lot size requirements and density standards. No portion of a lot or parcel divided by a navigable stream may be developed unless that portion of the lot or parcel meets or is combined to meet the minimum lot size requirements and density standards. This provision will ensure that development only takes place on lots or parcels which meet minimum lot size requirements, again safeguarding property owners.
- Counties may adopt standards to regulate substandard lots in common ownership.
- Minimum lot size and density standards are established for multi-unit residential development, mobile home parks, campgrounds and other types of uses.
- Counties may request the approval of an alternative regulation for campgrounds that is different than the minimum standards in ch. NR 115. Counties utilizing this option must demonstrate how the alternative regulation would achieve the statutory purposes of the program.
- Counties are granted the flexibility to regulate keyhole lots.
- New lot width measurement is developed which will accommodate irregular shaped lots.
- Counties are granted the flexibility to regulate backlots in the shoreland zone.
- Outlots may be created as part of a subdivision plat or certified survey map.
- Counties may request the approval of standards for alternative forms of development with reduced lot sizes and development densities for planned unit developments, cluster developments, conservation subdivisions, and other similar alternative forms of development if

they include, at a minimum, a required shoreland setback of more than 75 feet and a larger primary buffer than is required in s. NR 115.15(2).

- Language is added to address structures exempted by other state or federal laws from the shoreland setback standards.
- Provisions are added to allow counties to exempt 15 types of structures from the shoreland setback, an increase from 3 exempted structures.
- The construction of new dry boathouses is prohibited.
- Standards are established to qualify a lot for a reduced setback and two methods of calculating the reduced setback are provided. Counties may also request approval of an alternative setback reduction formulate, demonstrating how the alternative is as effective in achieving the purposes of s. 281.31(1) and (6), Stats.
- Language governing management of shoreland vegetation in the primary shoreland buffer is improved, resulting in a more functional buffer protection habitat and water quality.
- Tree and shrubbery pruning is allowed. Removal of trees and shrubs may be allowed if exotic or invasive species, diseased or damaged, or if an imminent safety hazard, but must be replaced.
- Provisions are added to allow counties to exempt 7 types of activities from the shoreland vegetation provisions.
- A formula to calculate the vegetative buffer mitigation requirements for existing multiple-unit developments was added to proportionately mitigate based on the intensity of the project.
- A formula for the width of access corridors is provided, replacing the "30 feet in any 100 feet" provision, which was confusing if a lot had less than 100 feet of frontage.
- Existing lawns may be maintained indefinitely in the primary shoreland buffer, unless a property owner decides to initiate one of 5 actions that require restoration of the primary shoreland buffer.
- Best management practices must be implemented and maintained that, to the maximum extent practicable, result in no increase in storm water discharge from impervious surfaces.
- If a project results in a lot being covered with 20% or more impervious surfaces, the shoreland buffers must be preserved or restored in compliance with the standards in s. NR 115.15 (applies only to lots with lands within 75 feet of the ordinary high water mark).
- An erosion control and revegetation plan is required for land disturbing activities to minimize erosion and sedimentation caused by the activity.
- A county permit is required for land disturbing activities in the shoreland zone if the project includes 2,000 square feet or more of land.
- Counties shall exempt from the permit requirement activities that have already received permits from other identified permitting authorities.
- Counties may require a wetland buffer to minimize the impacts of land disturbing activities to prevent damage to wetlands.
- The "50% rule" is removed, and a standard for the regulation of nonconforming structures based on the location and size of structures is used.
- Unlimited ordinary maintenance and repairs is allowed on nonconforming structures.
- Structural alternations are allowed on nonconforming structures if mitigation is implemented as specified by the county.
- Expansion and replacement of nonconforming accessory structures is prohibited, unless located in a campground or mobile home park, and certain standards are satisfied.
- Expansions of nonconforming principal structures is allowed is the structure is set back at least 35 feet from the ordinary high water mark, if the footprint cap is not exceeded, if mitigation is implemented as specified by the county and if other standards are met.
- Replacement of nonconforming principal structures is allowed on the existing foundation anywhere within the shoreland setback area, and on new foundations if the structure is setback at least 35 feet from the ordinary high water mark, if mitigation is implemented as specified by the county, and if other standards are met.
- Replacement of nonconforming principal structures is prohibited if the structure has no foundation, the foundation extends below the ordinary high water mark or the structure extends over the ordinary high water mark.

- Counties shall adopt a mitigation system that is roughly proportional to the impacts of activities proposed.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses. The Department's Small Business Regulatory Coordinator may be contacted at SmallBusinessReg.Coordinator@dnr.state.wi.us or by calling (608) 266-1959.

NOTICE IS HEREBY FURTHER GIVEN that the Department has prepared an Environmental Assessment in accordance with s. 1.11, Stats., and ch. NR 150, Wis. Adm. Code, that has concluded that the proposed rule is not a major state action which would significantly affect the quality of the human environment and that an environmental impact statement is not required.

NOTICE IS HEREBY FURTHER GIVEN that the Department will hold question and answer session from 4:30 p.m. until 5:45 p.m. prior to each hearing. Department staff will be available to answer questions regarding the proposed rules.

NOTICE IS HEREBY FURTHER GIVEN that the hearings will be held on:

<u>July 12, 2005</u> Tuesday	Chippewa Valley Technical College, 620 Clairemont Avenue, Eau Claire at 6:00 p.m.
<u>July 13, 2005</u> Wednesday	Wis. Indianhead Technical College, 2100 Beaser Avenue, Ashland at 6:00 p.m.
<u>July 14, 2005</u> Thursday	Egg Harbor Room, Landmark Resort, 7643 Hillside Road, Egg Harbor at 6:00 p.m.
<u>July 19, 2005</u> Tuesday	Western WI Technical College, 304 6 th Street North, La Crosse at 6:00 p.m.
<u>July 20, 2005</u> Wednesday	Whispering Pines Room, Grand Pines Resort, 12355 W. Richardson Bay Road, Hayward at 6:00 p.m.
<u>July 21, 2005</u> Thursday	Sentry World Theater, 1800 North Point Drive, Stevens Point at 6:00 p.m.
<u>July 26, 2005</u> Tuesday	UW Washington County, 400 University Drive, West Bend at 6:00 p.m.
<u>July 27, 2005</u> Wednesday	Grand Chute Town Hall, 1900 Grand Chute Boulevard, Grand Chute at 6:00 p.m.
<u>July 28, 2005</u> Thursday	Pelican/Shepard Rooms, Holiday Inn Express, 668 W. Kemp St., Rhinelander at 6:00 p.m.
<u>August 2, 2005</u> Tuesday	Lake Lawn Resort, 2400 East Geneva Street, Delavan at 6:00 p.m.
<u>August 4, 2005</u> Thursday	Oak Hall Room, Fitchburg Community Center, 5520 Lacy Road, Fitchburg at 6:00 p.m.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of information material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Toni Herkert at (608)

266-0161 with specific information on your request at least 10 days before the date of the scheduled hearing.

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: adminrules.wisconsin.gov. Written comments on the proposed rule may be submitted via U.S. mail to Toni Herkert, Bureau of Watershed Management, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until **August 26, 2005**. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Ms. Herkert.

Dated at Madison, Wisconsin _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Scott Hassett, Secretary